

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

STEVEN LEE CRAIG,)	
)	
Plaintiff,)	
vs.)	Case Number CIV-10-1345-C
)	
UNITED STATES OF AMERICA, et al.,)	
)	
Defendants.)	

ORDER OF DISMISSAL

Plaintiff, appearing pro se and in forma pauperis, filed a document entitled “Complaint for Declaratory and Injunctive Relief Motions for Subpoena’s [sic] of Duces Tecum.” Therein, Plaintiff complains about the refusal to issue certain documents to him, the alleged failure to comply with a Freedom of Information Act request, and the purported unconstitutionality of a publication. This is the second case filed by Plaintiff asserting essentially the same allegations. As with the first, the Court finds this pleading must be dismissed.

Pursuant to the directives of 28 U.S.C. § 1915, the Court has reviewed the allegations of the Complaint. Of particular relevance is subpart (e)(2) of § 1915, which states:

Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

(A) the allegation of poverty is untrue; or

(B) the action or appeal—

(i) is frivolous or malicious;

(ii) fails to state a claim on which relief may be granted; or

(iii) seeks monetary relief against a defendant who is immune from such relief.

The Court is mindful that Haines v. Kerner, 404 U.S. 519 (1972), requires a liberal construction of pro se complaints. However, the Court is not required to imagine or assume facts in order to permit a complaint to survive. Hall v. Bellmon, 935 F.2d 1106, 1109-10 (10th Cir. 1991). Applying these standards, the Complaint must be dismissed under § 1915(e)(2)(B)(ii), as it fails to state a claim for relief. Although the allegations of the Complaint are less than lucid, what is clear is that Plaintiff has failed to identify any harm arising from the publication and/or the alleged error therein. In the absence of irreparable harm, Plaintiff is not entitled to a preliminary injunction. Fed. R. Civ. P. 65.

Accordingly, pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(ii), Plaintiff's "Complaint for Declaratory and Injunctive Relief Motions for Subpoena's [sic] of Duces Tecum." (Dkt. No. 1) is DISMISSED without prejudice. Plaintiff is warned that future repetitive filings may lead to sanction.

IT IS SO ORDERED this 4th day of January, 2011.


ROBIN J. CAUTHRON
United States District Judge